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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,792	04/10/2001	Hendrik Decker	GR 00 P 1715	1912

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EXAMINER	
EL CHANTI, HUSSEIN A	

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/829,792	DECKER ET AL.	
	Examiner	Art Unit	
	Hussein A El-chanti	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. This action is responsive to amendment received on Nov. 15, 2004. Claims 1-10 are pending examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Anandakumar et al., U.S. Patent No. 6,757,256 (referred to hereafter as Anandakumar).

Anandakumar teaches the invention explicitly as claimed including a system and method for processing real-time packets according to a plurality of quality of service thresholds (see abstract).

As to claim 1, Anandakumar teaches a method of transmitting data with real-time requirement and data without real-time requirement, which comprises:

providing a plurality of first quality of service classes in an application layer for transmitting first data with real-time requirement and a plurality of second quality of service classes in the application layer for transmitting second data without real-time requirement (see col. 14 lines 29-41, the method sends real-time and diversity packets and adjusts the transmission rate according to QoS);

selecting a combined quality of service class formed from the first quality of service classes and the second quality of service classes in the application layer, each combined quality of service class being allocated transmission parameters specifying a transmission of the first data and the second data (see col. 14 lines 41-54, the transmission rate is modified according to the packet loss rate); and

supplying the first data and the second data and the transmission parameters of the selected combined quality of service class to a unit of a transport layer, and transmitting the first data and the second data with the unit taking into consideration the transmission parameters (see col. 14 lines 50-64).

As to claim 2, Anandakumar teaches the method according to claim 1, wherein the first data with real-time requirement contain voice data (see col. 4 lines 22-30).

As to claim 3, Anandakumar teaches the method according to claim 1, wherein the second data contain data selected from the group consisting of text data, video data, and image data (see col. 4 lines 22-30).

As to claim 4, Anandakumar teaches the method according to claim 1, which comprises allocating to each of the first quality of service classes a first priority and to each of the second quality of service classes a second priority, and specifying, based on the first and second priorities, a priority with which the first data and the second data, respectively, are to be transmitted (see col. 47-col. 48).

As to claim 5, Anandakumar teaches the method according to claim 4, which comprises forming the combined quality of service classes in dependence on the first and second priorities (see col. 47-col. 48).

As to claim 6, Anandakumar teaches the method according to claim 1, which comprises selecting the combined quality of service class with the following steps:

a) selecting a combined quality of service class having the first quality of service class with a highest first priority and the second quality of service class with a highest second priority;

b) checking whether a coder to be used can transmit the first data and the second data according to the transmission parameters of the respective combined quality of service class;

c) if the checking step results in an affirmative answer, selecting the combined quality of service class;

d) if the checking step does not result in an affirmative answer, selecting a further combined quality of service class such that in each case the combined quality of service class with reduced second priority is selected; and

e) iteratively performing steps b) and d) until the coder can transmit the first data and the second data in accordance with transmission parameters of the respective combined quality of service class (see col. 47-col. 48).

As to claim 7, Anandakumar teaches the method according to claim 1, which comprises coding and transmitting the first data and the second data as a data stream with a predeterminable transport layer quality of service class in the unit of the transport layer (see col. 47-col. 48).

As to claim 8, Anandakumar teaches a communication device for transmitting first data with real-time requirement and second data without real-time requirement, wherein a plurality of first quality of service classes are provided in an application layer for transmitting the first data and a plurality of second quality of service classes are provided in the application layer for transmitting the second data, the device comprising: a processor programmed to select a combined quality of service class formed from the first quality of service classes and the second quality of service classes in the application layer, each combined quality of service class being allocated transmission parameters specifying a transmission of the first data and the second data; and a transmission unit of a transport layer receiving from said processor the first data and the second data and the transmission parameters of the selected combined quality of service class, and transmitting the first data and the second data taking into consideration the transmission parameters (see col. 4).

As to claim 9, Anandakumar teaches the communication device according to claim 8 configured as a mobile communication device (see abstract).

As to claim 10, Anandakumar teaches a communications system, comprising said communication device according to claim 8 configured as a first, mobile

communication device, and a second communication device, wherein the first data and the second data can be transmitted from said first communication device to said second communication device (see abstract).

3. Applicant's arguments filed have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that; A) Anandakumar does not disclose a first real time data and a second non-real time data B) Anandakumar does not disclose a combined quality of service class formed from the first quality of service classes.

In response to A) Anandakumar teaches a method of sending packets of real-time information at a sender includes steps of initially generating at the sender the packets of real-time information with a source rate greater than zero kilobits per second, and a time or path or combined time/path diversity rate. When the QoS is on an unacceptable side of said threshold increases the diversity rate and sends not only additional ones of the packets of real-time information but also sends diversity packets at the diversity rate as increased (see abstract). Anandakumar teaches the method sends real time packets and diversity packets where the diversity packets are packets that were lost and are retransmitted at a later time because the "real time packets were lost". Therefore the diversity packets are considered to be non-real time packets since the diversity packets are a retransmission of real-time packets. There is no limitation in the claim on what differs a real time packet from a non-real time packet or the transmission times of the packets and therefore the real time packets and the diversity

packets taught by Anandakumar meets the scope of the claimed limitation "transmitting first data with real-time requirement and a plurality of second quality of service classes in the application layer for transmitting second data without real-time requirement".

In response to B) Anandakumar teaches the packets are transmitted at a rate where the rate is compared to a threshold rate set by the user. If the transmission rate is greater than the threshold, then the packets are transmitted, otherwise the rate is increased to meet the required threshold. The transmission rate is considered to be the first quality of service and threshold is considered to be the second QOS where the transmission rate and the threshold are combined to determine whether the packets can be transmitted or not (see abstract). There is no limitation on the content or rules used to determine the quality of service and therefore Anandakumar meets the scope of the claimed limitation "the first data and the second data and the transmission parameters of the selected combined quality of service class to a unit of a transport layer".

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A El-chanti whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hussein El-chanti

Dec. 28, 2004

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SUPERVISORY PATENT EXAMINER
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